



House of Representatives

General Assembly

File No. 727

January Session, 2009

Substitute House Bill No. 6340

House of Representatives, April 20, 2009

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING JUDICIAL BRANCH OPENNESS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 51-44a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) There is established a Judicial Selection Commission comprised
4 of twelve members. Six of the members shall be attorneys-at-law and
5 six of the members shall not be attorneys-at-law. Not more than six of
6 the members shall belong to the same political party. None of the
7 members shall be an elected or appointed official of the state or hold
8 state-wide office in a political party.

9 (b) The members of the commission shall be appointed as follows:
10 The Governor shall appoint six members, one from each congressional
11 district and one at-large member, three of whom shall be attorneys-at-
12 law and three of whom shall not be attorneys-at-law; the president pro
13 tempore of the Senate shall appoint one member who shall be an
14 attorney-at-law; the speaker of the House of Representatives shall

15 appoint one member who shall not be an attorney-at-law; the majority
16 leader of the Senate shall appoint one member who shall not be an
17 attorney-at-law; the majority leader of the House of Representatives
18 shall appoint one member who shall be an attorney-at-law; the
19 minority leader of the Senate shall appoint one member who shall not
20 be an attorney-at-law; and the minority leader of the House of
21 Representatives shall appoint one member who shall be an attorney-at-
22 law.

23 (c) The members of the commission shall elect a chairperson from
24 among the members appointed by the Governor.

25 (d) (1) The members of the commission shall serve for terms of three
26 years.

27 (2) Members appointed on or after June 26, 2003, shall serve for
28 terms of three years and, notwithstanding the provisions of section 4-1,
29 until their successors are appointed and have qualified or ninety days
30 after the completion of their terms, whichever is earlier.

31 (3) Members serving on June 26, 2003, shall continue to serve as
32 members until the end of their terms and, notwithstanding the
33 provisions of section 4-1, until their successors are appointed and have
34 qualified or ninety days after the completion of their terms, whichever
35 is earlier, except that members serving on June 26, 2003, who have
36 completed their terms and are serving until their successors are
37 appointed and have qualified shall, notwithstanding the provisions of
38 section 4-1, continue to serve until their successors are appointed and
39 have qualified, but not later than January 1, 2004.

40 (4) Any vacancy in the membership of the commission shall be filled
41 for the unexpired portion of the term by the appointing authority. The
42 members of the commission shall receive no compensation for their
43 services but shall be reimbursed for any necessary expenses incurred
44 in the performance of their duties.

45 (5) No member of the commission may serve consecutive terms,

46 except that if, on or after June 26, 2003, a person is appointed a
47 member of the commission to fill a vacancy and complete an
48 unexpired term, such person may serve an additional term. If a
49 commission member is an attorney, no member of the commission
50 member's firm may serve a term consecutive to such commission
51 member.

52 (e) The commission shall evaluate incumbent judges who seek
53 reappointment to the same court, and incumbent state referees who
54 seek reappointment, and shall forward to the Governor for
55 consideration the names of incumbent judges and state referees who
56 are recommended for reappointment as provided in this subsection.
57 The commission shall adopt regulations, in accordance with the
58 provisions of chapter 54, concerning criteria by which to evaluate
59 incumbent judges who seek reappointment to the same court [;
60 provided pending adoption of such regulations, the commission shall
61 use criteria established prior to June 22, 1989, for the evaluation of such
62 judges] and incumbent state referees who seek reappointment. In
63 evaluating the reappointment of an incumbent judge or state referee,
64 the commission shall consider the legal ability, competence, integrity,
65 character and temperament of such judge or state referee and any
66 other relevant information concerning such judge or state referee.
67 There shall be a presumption that each incumbent judge who seeks
68 reappointment to the same court or incumbent state referee who seeks
69 reappointment qualifies for retention in judicial office. The burden of
70 rebutting such presumption shall be on the commission. The
71 commission shall investigate and interview each incumbent judge and
72 state referee who seeks reappointment and, prior to the expiration of a
73 term of office of such judge or state referee, shall recommend such
74 incumbent judge or state referee for nomination for reappointment by
75 the Governor [to the same court] unless, as provided in this subsection,
76 recommendation of such judge or state referee is denied. If a
77 preliminary examination indicates further inquiry is necessary before a
78 recommendation of reappointment may be made, the commission shall
79 hold a hearing concerning the reappointment of such judge or state
80 referee. The commission shall send notice to the judge or state referee

81 by certified or registered mail, return receipt requested, not less than
82 one hundred eighty days prior to the convening of such legislative
83 session which is to consider the reappointment of the incumbent judge
84 or state referee, (A) that a hearing by the commission on such
85 reappointment shall be held and of the time, date and place of such
86 hearing, which shall be not less than thirty days [nor] or more than
87 forty-five days after the date of such notice, and (B) of specific claims
88 made against the judge or state referee. The commission shall make a
89 record of all hearings conducted pursuant to this subsection. The
90 hearing may be open to the public at the request of the judge or state
91 referee. For the purposes of conducting a hearing under this
92 subsection, not less than ten members of the commission shall be
93 present and voting. A judge or state referee appearing before such a
94 hearing shall be entitled to counsel, to present evidence and to cross-
95 examine witnesses who appear voluntarily. No judge or state referee
96 shall be required to sign or execute any release in order to proceed
97 with the hearing. The commission shall, not later than twenty days
98 after the close of such hearing, render its decision whether it shall
99 recommend such incumbent judge or state referee for nomination for
100 reappointment by the Governor. Any affirmative vote of a majority
101 plus one of the members present and voting shall be required to deny
102 recommendation to the Governor for nomination of an incumbent
103 judge for reappointment to the same court or for nomination of an
104 incumbent state referee for reappointment. A judge or state referee
105 who has not received approval by the commission may, within ten
106 days after receipt of the notice of decision, which shall include a record
107 of the numerical vote, request a rehearing on the grounds that the
108 conclusions of the commission are contrary to the evidence presented
109 at the hearing or the commission failed to comply with the procedural
110 or substantive requirements of this section. The decision of the
111 commission shall be final. There shall be no right of appeal by any
112 judge or state referee appearing before the commission, at law or in
113 equity, or any resort to any court following the decision of the
114 commission.

115 (f) Except as provided in subsection (e) of this section, the

116 commission shall seek qualified candidates for consideration by the
117 Governor for nomination as judges for the Superior Court, Appellate
118 Court and Supreme Court. The commission shall adopt regulations, in
119 accordance with the provisions of chapter 54, concerning criteria by
120 which to evaluate the qualifications of candidates, including
121 incumbent judges who seek appointment to a different court. The
122 commission shall investigate and interview the candidates, including
123 incumbent judges seeking appointment to a different court. A list of
124 such qualified candidates shall be compiled by the commission. Such
125 list shall be confidential and not open to the public or subject to
126 disclosure, except that the names of qualified candidates for the
127 position of associate judge or Chief Justice of the Supreme Court shall
128 be available to the public.

129 (g) In connection with any inquiry concerning the reappointment of
130 an incumbent judge or state referee, the commission shall have the
131 power to issue subpoenas requiring the attendance of witnesses and
132 the production of any books or papers which in the judgment of the
133 commission are relevant to the inquiry. The commission may, upon
134 request of the judge or state referee whose reappointment is at issue,
135 issue a subpoena on behalf of such judge or state referee. If any person
136 disobeys such process or, having appeared in obedience thereto
137 refuses to answer any pertinent question put to [him] such person by
138 the commission [,] or to produce any books and papers pursuant
139 thereto, the commission, on its own behalf or on behalf of the judge or
140 state referee, may apply to the superior court for the judicial district of
141 Hartford setting forth such disobedience to process or refusal to
142 answer, and [said] the court may cite such person to appear before
143 [said] the court to answer such question or to produce such books and
144 papers and, upon [his] such person's refusal [so] to do so, shall commit
145 [him] such person to a community correctional center, there to remain
146 until [he] such person so testifies.

147 (h) (1) Judges of all courts, except those courts to which judges are
148 elected, shall be nominated by the Governor exclusively from the list of
149 candidates or incumbent judges submitted by the Judicial Selection

Commission. Any candidate or incumbent judge who is nominated from such list by the Governor to be Chief Justice of the Supreme Court, and who is appointed Chief Justice by the General Assembly, shall serve a term of eight years from the date of appointment. The Governor shall nominate a candidate for a vacancy in a judicial position within forty-five days of the date the Governor receives the recommendations of the commission. When considering the nomination of an incumbent judge for reappointment to the same court, the Governor may nominate the incumbent judge if the commission did not deny recommendation for reappointment. Whenever an incumbent judge is denied recommendation for reappointment to the same court by the commission or is recommended by the commission but not nominated by the Governor for reappointment to the same court, or whenever a vacancy in a judicial position occurs or is anticipated, the Governor shall choose a nominee from the list of candidates compiled pursuant to subsection (f) of this section.

(2) Notwithstanding the provisions of subdivision (1) of this subsection and subsection (f) of this section, the Governor may nominate an associate judge of the Supreme Court to be Chief Justice of the Supreme Court without such judge being investigated and interviewed by the commission and being on the list of qualified candidates compiled and submitted to the Governor by the commission. An associate judge of the Supreme Court who has been nominated by the Governor to be Chief Justice of the Supreme Court in accordance with this subdivision, and who is appointed Chief Justice by the General Assembly, shall serve an initial term as Chief Justice equal to the remainder of such judge's term as an associate judge of the Supreme Court.

(3) When considering the nomination of an incumbent state referee for reappointment, the Governor may nominate the incumbent state referee if the commission did not deny recommendation for reappointment.

183 (i) A majority of the membership of the commission shall constitute
184 a quorum. The affirmative vote of at least a majority of the members of
185 the commission present and voting shall be required for any action by
186 the commission, except (1) an affirmative vote of at least a majority
187 plus one of the members present and voting shall be required for a
188 new nominee to be recommended to the Governor for nomination as a
189 judge or for an incumbent judge to be recommended to the Governor
190 for nomination as a judge to a different court, and (2) an affirmative
191 vote of a majority plus one of the members present and voting shall be
192 required to deny recommendation to the Governor for nomination of
193 an incumbent judge for reappointment to the same court or for
194 nomination of an incumbent state referee for reappointment. No vote
195 of the commission on a new nominee shall be by secret ballot. The vote
196 of the commission on an incumbent judge or state referee may be by
197 secret ballot. The total affirmative and negative votes of the
198 membership of the commission to recommend an incumbent judge for
199 reappointment to the same court or appointment to a different court or
200 to recommend an incumbent state referee for reappointment shall be
201 available to the public.

202 (j) Except as provided in subsections (e), (f), (i) and (m) of this
203 section, the investigations, deliberations, files and records of the
204 commission shall be confidential and shall not be open to the public or
205 subject to disclosure, except that the criteria by which candidates, [or]
206 incumbent judges who seek reappointment to the same court or
207 appointment to a different court or incumbent state referees who seek
208 reappointment are evaluated and the procedural rules adopted by the
209 commission shall be public.

210 (k) The commission may employ such staff as is necessary for the
211 performance of its functions and duties.

212 (l) No member of the commission who is an attorney-at-law shall be
213 considered for recommendation to the Governor for nomination as a
214 judge during [his] such member's tenure on the commission or for a
215 period of two years following the termination of [his] such member's

216 tenure on the commission.

217 (m) In January of each year, the chairperson of the commission shall
218 report to the joint standing committee [on] of the General Assembly
219 having cognizance of matters relating to the judiciary the following
220 information: (1) The number of candidates interviewed for
221 appointment as new nominees, the number of incumbent judges
222 interviewed for reappointment to the same court, [and] the number of
223 incumbent judges interviewed for appointment to a different court and
224 the number of incumbent state referees interviewed for reappointment,
225 (2) the number of candidates who were recommended and denied
226 recommendation to the Governor as new nominees, the number of
227 incumbent judges recommended and denied recommendation for
228 [appointment] reappointment to the same court, [and] the number of
229 incumbent judges recommended and denied recommendation for
230 appointment to a different court and the number of incumbent state
231 referees recommended and denied recommendation for
232 reappointment, and (3) the statistics regarding the race, gender,
233 national origin, religion and years of experience as members of the bar
234 of all such candidates.

235 (n) The commission [shall have the power to] may enter into such
236 contractual agreements as may be necessary for the discharge of its
237 duties concerning the investigation of candidates seeking appointment
238 to a judicial position, [and] incumbent judges seeking reappointment
239 to the same court or appointment to a different court and incumbent
240 state referees seeking reappointment, within the limits of appropriated
241 funds and in accordance with established procedures.

242 Sec. 2. Subsection (a) of section 51-50l of the general statutes is
243 repealed and the following is substituted in lieu thereof (*Effective*
244 *October 1, 2009*):

245 (a) Each senior judge who ceases to hold office as a senior judge
246 because of having reached the age of seventy years and who is an
247 elector and a resident of this state shall be a state referee for the
248 remainder of [his] such senior judge's term of office as a judge and

249 shall be eligible for appointment as a state referee during the
250 remainder of [his] such senior judge's life in the manner prescribed by
251 law for the appointment of a judge of the court of which [he] such
252 senior judge is a member, subject to the provisions of section 51-44a, as
253 amended by this act.

254 Sec. 3. Subsection (a) of section 52-434 of the general statutes is
255 repealed and the following is substituted in lieu thereof (*Effective*
256 *October 1, 2009*):

257 (a) (1) Each judge of the Supreme Court, each judge of the Appellate
258 Court, each judge of the Superior Court and each judge of the Court of
259 Common Pleas who ceases or has ceased to hold office because of
260 retirement other than under the provisions of section 51-49 and who is
261 an elector and a resident of this state shall be a state referee for the
262 remainder of such judge's term of office as a judge and shall be eligible
263 for appointment as a state referee during the remainder of such judge's
264 life in the manner prescribed by law for the appointment of a judge of
265 the court of which such judge is a member, subject to the provisions of
266 section 51-44a, as amended by this act. The Superior Court may refer
267 any civil [,] nonjury case or with the written consent of the parties or
268 their attorneys, any civil jury case pending before the court in which
269 the issues have been closed to a judge trial referee who shall have and
270 exercise the powers of the Superior Court in respect to trial, judgment
271 and appeal in the case, and any proceeding resulting from a demand
272 for a trial de novo pursuant to subsection (e) of section 52-549z may be
273 referred without the consent of the parties to a judge trial referee who
274 has been specifically designated to hear such proceedings pursuant to
275 subsection (b) of this section. The Superior Court may, with the
276 consent of the parties or their attorneys, refer any criminal case to a
277 judge trial referee who shall have and exercise the powers of the
278 Superior Court in respect to trial, judgment, sentencing and appeal in
279 the case, except that the Superior Court may, without the consent of
280 the parties or their attorneys, (A) refer any criminal case, other than a
281 criminal jury trial, to a judge trial referee assigned to a geographical
282 area criminal court session, and (B) refer any criminal case, other than

283 a class A or B felony or capital felony, to a judge trial referee to preside
284 over the jury selection process and any voir dire examination
285 conducted in such case, unless good cause is shown not to refer.

286 (2) Each judge of the Circuit Court who has ceased to hold office
287 because of retirement other than under the provisions of section 51-49
288 and who is an elector and a resident of this state shall be a state referee
289 for the remainder of such judge's term of office as a judge and shall be
290 eligible for appointment as a state referee during the remainder of such
291 judge's life in the manner prescribed by law for the appointment of a
292 judge of the court of which such judge is a member, subject to the
293 provisions of section 51-44a, as amended by this act, to whom the
294 Superior Court may, with the written consent of the parties or their
295 attorneys, refer any case pending in court in which the issues have
296 been closed and which the judges of the Superior Court may establish
297 by rule to be the kind of case which may be heard by such referees
298 who have been appointed judge trial referees pursuant to subsection
299 (b) of this section. The judge trial referee shall hear any such case so
300 referred and report the facts to the court by which the case was
301 referred.

302 (3) Each judge of the Juvenile Court who ceases or has ceased to
303 hold office because of retirement other than under the provisions of
304 section 51-49 and who is an elector and a resident of this state shall be
305 a state referee for the remainder of such judge's term of office as a
306 judge and shall be eligible for appointment as a state referee during the
307 remainder of such judge's life in the manner prescribed by law for the
308 appointment of a judge of the court of which such judge is a member,
309 subject to the provisions of section 51-44a, as amended by this act, to
310 whom a judge before whom any juvenile matter is pending may, with
311 the written consent of the child concerned, either of such child's
312 parents, or such child's guardian or attorney, refer any juvenile matter
313 pending, provided such referee has been appointed a judge trial
314 referee specifically designated to hear juvenile cases pursuant to
315 subsection (b) of this section. The judge trial referee shall hear any
316 matter so referred and report the facts to the court for the district from

317 which the matter was referred.

318 (4) In addition to the judge trial referees who are appointed
319 pursuant to subdivision (1), (2) or (3) of this subsection, the Chief
320 Justice may appoint, from qualified members of the bar of the state,
321 who are electors and residents of this state, as many state referees as
322 the Chief Justice may from time to time deem advisable or necessary.
323 No appointment of a member of the bar may be for a term of more
324 than three years. Notwithstanding the provisions of subsection (f) of
325 this section, state referees appointed by the Chief Justice from
326 members of the bar shall receive such reasonable compensation and
327 expenses as may be determined by the Chief Justice. The Superior
328 Court may appoint a state referee pursuant to this subdivision to take
329 such evidence as it directs in any civil [.] nonjury case including, but
330 not limited to, appeals under section 8-8. Any such state referee shall
331 report on such evidence to the court with any findings of fact. The
332 report shall constitute a part of the proceeding upon which the
333 determination of the court shall be made.

334 Sec. 4. Section 51-51k of the general statutes is repealed and the
335 following is substituted in lieu thereof (*Effective October 1, 2009*):

336 (a) There is hereby established a Judicial Review Council to be
337 composed of the following members: (1) Three judges of the Superior
338 Court, who are not also judges of the Supreme Court, who shall be
339 appointed by the Governor, from a list of six judges selected by the
340 members of the Superior Court, with the approval of the General
341 Assembly, (2) three attorneys-at-law admitted to practice in this state,
342 who shall be appointed by the Governor with the approval of the
343 General Assembly, (3) six persons who are not judges or attorneys-at-
344 law, who shall be appointed by the Governor with the approval of the
345 General Assembly, and (4) thirteen alternate members who shall be
346 appointed by the Governor with the approval of the General
347 Assembly, as follows: (A) Two judges of the Superior Court who are
348 not also judges of the Supreme Court, from a list of four judges
349 selected by the members of the Superior Court, (B) two attorneys-at-

350 law admitted to practice in this state, (C) three persons who are not
351 judges or attorneys-at-law, (D) three compensation commissioners,
352 and (E) three family support magistrates.

353 (b) An alternate member who is a judge, attorney-at-law or person
354 who is not a judge or attorney-at-law shall serve at probable cause
355 hearings and public hearings in lieu of a member who is a judge,
356 attorney-at-law or person who is not a judge or attorney-at-law,
357 respectively, when such member is absent or disqualified, as
358 designated by the executive director of the council. An alternate
359 member who is a compensation commissioner shall serve as a member
360 of the council in lieu of one of the members who is a judge of the
361 Superior Court, as designated by the executive director, when the
362 subject of a complaint or investigation is a compensation
363 commissioner. An alternate member who is a family support
364 magistrate shall serve as a member of the council in lieu of one of the
365 members who is a judge of the Superior Court, as designated by the
366 executive director, when the subject of a complaint or investigation is a
367 family support magistrate. An alternate member shall have the same
368 power as the member he or she is temporarily replacing during the
369 absence or disqualification of the member.

370 (c) On and after December 1, 1992, members shall be appointed in
371 accordance with subsection (a) of this section as follows: One judge
372 shall be appointed for a term of two years, one judge shall be
373 appointed for a term of three years and one judge shall be appointed
374 for a term of four years; one attorney shall be appointed for a term of
375 two years, one attorney shall be appointed for a term of three years
376 and one attorney shall be appointed for a term of four years; two lay
377 members shall be appointed for terms of two years, two lay members
378 shall be appointed for terms of three years, and two lay members shall
379 be appointed for terms of four years. Thereafter, members shall serve
380 for terms of four years. Members may continue in office until a
381 successor is appointed and qualified. No member appointed on or
382 after December 1, 1992, may serve consecutive terms, and if the
383 member is an attorney, no member of his or her firm may serve a term

384 consecutive to such member, provided no member may serve for more
385 than two terms. Vacancies on the council shall be filled for the
386 unexpired portion of any term in the same manner as the original
387 appointment. Any member who is a judge, family support magistrate
388 or compensation commissioner and retires from full-time active service
389 as a judge, family support magistrate or compensation commissioner
390 shall automatically cease to be a member of the council, and a vacancy
391 shall be deemed to occur. Alternate members shall be appointed for
392 terms of three years and shall not serve consecutive terms as alternate
393 members.

394 (d) No member of the council, except a judge, family support
395 magistrate or compensation commissioner, may hold any elected or
396 appointed position with compensation within the state or United
397 States, or be a selectman or chief executive officer of any municipality,
398 or a full or part-time employee of the Judicial Department or Workers'
399 Compensation Commission, or a member of a national or state central
400 committee, or a chairperson of any political party.

401 (e) (1) The Judicial Review Council shall employ an executive
402 director and such other staff as is necessary for the performance of its
403 functions and duties.

404 (2) The executive director may investigate any complaint filed
405 pursuant to section 51-51l, as amended by this act, and present
406 evidence obtained pursuant to any such investigation to the council.

407 (f) The Judicial Review Council shall develop a concise brochure
408 written in plain language to provide the public with information
409 concerning the purpose, authority, jurisdiction and process of the
410 Judicial Review Council. The council shall distribute the brochure to all
411 court administrative offices and to any person who files a complaint
412 pursuant to section 51-51l, as amended by this act.

413 (g) The council shall give notice of the time and place of its
414 meetings, and make the agendas for such meetings available to the
415 public, in accordance with the provisions of chapter 14, except that an

416 agenda made available to the public shall not contain any personally
417 identifiable information that might identify the respondent unless the
418 meeting takes place after the council has found that probable cause
419 exists that the respondent is guilty of conduct under section 51-51i. The
420 council shall post such notices and agendas on its Internet web site and
421 provide such notices and agendas to the cochairpersons of the joint
422 standing committee of the General Assembly having cognizance of
423 matters relating to the judiciary.

424 (h) In any proceeding before the council concerning a judge or
425 family support magistrate, the council shall not consider any ethics
426 advisory opinion issued by the Judicial Branch or any committee
427 thereof or inquire as to whether the judge or family support magistrate
428 sought or received any ethics advisory opinion.

429 [(g)] (i) The Judicial Review Council shall submit to the Governor,
430 the Judicial Department, the joint standing committee of the General
431 Assembly having cognizance of matters relating to the Judicial Review
432 Council, and the judges of the Superior Court annually on or before
433 September first, a report of its activities for the previous fiscal year,
434 including the number of complaints received and the number of each
435 type of complaint disposition, including the number of dismissals, the
436 number of admonishments and the number of cases in which probable
437 cause was found.

438 [(h)] (j) The Commissioner of Public Works shall provide the
439 Judicial Review Council office space for the conduct of duties of the
440 council.

441 [(i)] (k) The Judicial Review Council shall adopt regulations, in
442 accordance with the provisions of chapter 54, to establish rules and
443 procedures for the council in the discharge of its duties under this
444 chapter and to provide standards for the identification of and
445 procedures for the treatment of conflicts of interest for council
446 members, which standards shall require that any professional or
447 ethical codes of conduct shall apply to any professional member of the
448 council subject to such codes of conduct.

449 Sec. 5. Section 51-51l of the general statutes is repealed and the
450 following is substituted in lieu thereof (*Effective October 1, 2009*):

451 (a) Except as provided in subsection (d) of this section, the Judicial
452 Review Council shall investigate every written complaint brought
453 before it alleging conduct under section 51-51i, and may initiate an
454 investigation of any judge, compensation commissioner or family
455 support magistrate if (1) the council has reason to believe conduct
456 under section 51-51i has occurred, or (2) previous complaints indicate a
457 pattern of behavior which would lead to a reasonable belief that
458 conduct under section 51-51i has occurred. The council shall, not later
459 than five days after such initiation of an investigation or receipt of such
460 complaint, notify by registered or certified mail any judge,
461 compensation commissioner or family support magistrate under
462 investigation or against whom such complaint is filed. A copy of any
463 such complaint shall accompany such notice. The council shall also
464 notify the complainant of its receipt of such complaint not later than
465 five days thereafter. Any investigation to determine whether or not
466 there is probable cause that conduct under section 51-51i has occurred
467 shall be confidential and any individual called by the council for the
468 purpose of providing information shall not disclose [his] such
469 individual's knowledge of such investigation to a third party prior to
470 the decision of the council on whether probable cause exists, unless the
471 respondent requests that such investigation and disclosure be open,
472 [provided] except that (A) information known or obtained
473 independently of any such investigation shall not be confidential, and
474 (B) the council may, upon request and after providing the judge,
475 compensation commissioner or family support magistrate who is the
476 subject of the investigation an opportunity to be heard, disclose that an
477 investigation is being conducted if the council determines that (i) the
478 essential facts underlying the investigation have been widely made
479 public, and (ii) preserving public confidence in the administration of
480 justice outweighs the privacy interest of the judge, compensation
481 commissioner or family support magistrate who is the subject of the
482 investigation. The judge, compensation commissioner or family
483 support magistrate shall have the right to appear and be heard and to

484 offer any information which may tend to clear [him] such judge,
485 compensation commissioner or family support magistrate of probable
486 cause to believe he or she is guilty of conduct under section 51-51i. The
487 judge, compensation commissioner or family support magistrate shall
488 also have the right to be represented by legal counsel and examine and
489 cross-examine witnesses. In conducting its investigation under this
490 subsection, the council may request that a court furnish to the council a
491 record or transcript of court proceedings made or prepared by a court
492 reporter, assistant court reporter or monitor and the court shall, upon
493 such request, furnish such record or transcript.

494 (b) The Judicial Review Council shall, not later than three business
495 days after the termination of such investigation, notify the
496 complainant, if any, and the judge, compensation commissioner or
497 family support magistrate that the investigation has been terminated
498 and the results thereof. If the council finds that conduct under section
499 51-51i has not occurred, but the judge, compensation commissioner or
500 family support magistrate has acted in a manner which gives the
501 appearance of impropriety or constitutes an unfavorable judicial or
502 magisterial practice, the council may issue an admonishment to the
503 judge, compensation commissioner or family support magistrate
504 recommending a change in judicial or magisterial conduct or practice.
505 If an admonishment is issued, the council shall (1) notify the joint
506 standing committee of the General Assembly having cognizance of
507 matters relating to the judiciary that an admonishment was issued and
508 provide said committee with the substance of the admonishment,
509 including copies of the complaint file, and (2) inform the complainant,
510 if any, that an admonishment was issued if the admonishment is the
511 result of misconduct alleged in the complaint. Except as provided in
512 subdivision (1) of this subsection, the substance of the admonishment
513 shall not be disclosed to any person or organization.

514 (c) If a preliminary investigation indicates that probable cause exists
515 that the judge, compensation commissioner or family support
516 magistrate is guilty of conduct under section 51-51i, the council shall
517 hold a hearing concerning the conduct or complaint. All hearings held

518 pursuant to this subsection shall be open. A judge, compensation
519 commissioner or family support magistrate appearing before such a
520 hearing shall be entitled to counsel, to present evidence and to cross-
521 examine witnesses. The council shall make a record of all proceedings
522 pursuant to this subsection. After all evidence and arguments have
523 been presented at such hearing, the council shall determine whether
524 the judge, compensation commissioner or family support magistrate is
525 guilty of conduct under section 51-51i. The council shall not later than
526 thirty days after the close of such hearing publish its findings together
527 with a memorandum of its reasons therefor. The entire record of the
528 proceedings pursuant to this subsection including any complaint,
529 transcripts and statements and other documents introduced into
530 evidence during such proceedings shall be open for public inspection,
531 except that any information that would be exempt from disclosure
532 under subsection (b) of section 1-210 shall be removed or redacted.

533 (d) No complaint against a judge, compensation commissioner or
534 family support magistrate alleging conduct under section 51-51i shall
535 be brought under this section but within one year from the date the
536 alleged conduct occurred or was discovered or in the exercise of
537 reasonable care should have been discovered, except that no such
538 complaint may be brought more than three years from the date the
539 alleged conduct occurred.

540 (e) Notwithstanding the provisions of subsections (a) and (b) of this
541 section, the council shall disclose any information concerning
542 complaints received by the council on and after January 1, 1978,
543 investigations, and disposition of such complaints to the legislative
544 program review and investigations committee when requested by the
545 committee in the course of its functions, in writing and upon a
546 majority vote of the committee, provided no names or other
547 identifying information shall be disclosed.

548 (f) On and after December 19, 1991, any judge, compensation
549 commissioner or family support magistrate who has been the subject
550 of an investigation by the Judicial Review Council as a result of a

551 complaint brought before [such] the council may request that such
552 complaint, investigation and the disposition of such complaint be open
553 to public inspection.

554 (g) Whenever a complaint against a judge, compensation
555 commissioner or family support magistrate is pending before the
556 Judicial Review Council within the final year of the term of office of
557 such judge, compensation commissioner or family support magistrate,
558 the Judicial Review Council shall designate such complaint as
559 privileged and shall conduct an expedited investigation and hearing so
560 that its duties with respect to such complaint are completed in
561 sufficient time to enable the Judicial Review Council to [make its
562 recommendation concerning any such judge to the Judicial Selection
563 Commission and] submit its report concerning such complaint to the
564 Governor, the Judicial Selection Commission and the joint standing
565 committee of the General Assembly having cognizance of matters
566 relating to the judiciary, as required under section 51-51q, as amended
567 by this act, in a timely manner.

568 Sec. 6. Subsection (a) of section 51-51m of the general statutes is
569 repealed and the following is substituted in lieu thereof (*Effective*
570 *October 1, 2009*):

571 (a) The Judicial Review Council may take any action upon a
572 majority vote of its members present and voting, except that twelve
573 members of the Judicial Review Council shall constitute a quorum for
574 any action to publicly censure a judge, compensation commissioner or
575 family support magistrate, suspend a judge, compensation
576 commissioner or family support magistrate for any period, refer the
577 matter to the Supreme Court with a recommendation that a judge or
578 family support magistrate be suspended for a period longer than one
579 year, [or] refer the matter to the Supreme Court with a
580 recommendation that a judge or family support magistrate be removed
581 from office or to the Governor with a recommendation that a
582 compensation commissioner be removed from office or impose a civil
583 penalty on a judge, compensation commissioner or family support

584 magistrate and the concurring vote of seven of such members shall be
585 required.

586 Sec. 7. Subsection (a) of section 51-51n of the general statutes is
587 repealed and the following is substituted in lieu thereof (*Effective*
588 *October 1, 2009*):

589 (a) The Judicial Review Council may, after a hearing pursuant to
590 subsection (c) of section 51-51l, as amended by this act, (1) publicly
591 censure the judge, compensation commissioner or family support
592 magistrate, (2) suspend the judge, compensation commissioner or
593 family support magistrate for a definite term not to exceed one year,
594 (3) refer the matter to the Supreme Court with a recommendation that
595 the judge or family support magistrate be suspended for a period
596 longer than one year, (4) refer the matter to the Supreme Court with a
597 recommendation that the judge or family support magistrate be
598 removed from office or to the Governor with a recommendation that
599 the compensation commissioner be removed from office, or (5)
600 exonerate the judge, compensation commissioner or family support
601 magistrate of all charges. In lieu of imposing a suspension under
602 subdivision (2) of this subsection, the council may impose a civil
603 penalty of not more than ten thousand dollars per violation.

604 Sec. 8. Section 51-51q of the general statutes is repealed and the
605 following is substituted in lieu thereof (*Effective October 1, 2009*):

606 (a) (1) [The] Whenever a judge is nominated for reappointment to
607 the same court or appointment to a different court, the Judicial Review
608 Council shall submit [its recommendations concerning the nomination
609 for appointment to a different court of any judge or nomination for
610 reappointment of any judge whose term of office is about to expire,
611 including] a report of any complaint filed against [any] such judge and
612 the disposition of any such complaint, [and] including any
613 investigation of any such judge by the council, to the Governor, to the
614 Judicial Selection Commission and to the joint standing committee of
615 the General Assembly having cognizance of matters relating to the
616 judiciary, provided the Judicial Selection Commission shall not

617 consider any investigation of the Judicial Review Council which
618 resulted in the exoneration of a judge.

619 (2) In addition to the information required to be submitted under
620 subdivision (1) of this subsection, the Judicial Review Council shall
621 make all complaint files concerning any such judge available to the
622 joint standing committee of the General Assembly having cognizance
623 of matters relating to the judiciary. Notwithstanding any provision of
624 the general statutes, if the disposition of a complaint filed against any
625 such judge involved the issuance of an admonishment to [or] such
626 judge, the public censure or suspension of such judge or the imposition
627 of a civil penalty against such judge, (A) no information pertaining to
628 the complaint and the investigation and disposition of such complaint
629 may be removed, redacted or otherwise withheld by the Judicial
630 Review Council prior to making such complaint files available to said
631 committee as required by this subdivision, and (B) the Judicial Review
632 Council shall provide to said committee any information, including,
633 but not limited to, any confidential information, in its possession
634 concerning such judge that may be requested in writing by the
635 cochairpersons of said committee. Such information shall be provided
636 to said committee not later than three business days following the date
637 the request is received by the Judicial Review Council. Any
638 confidential information provided to said committee as required by
639 this subdivision shall not be further disclosed to any person or
640 organization.

641 [(3) If the Judicial Review Council has reason to believe any such
642 judge is guilty of conduct under section 51-51i, material neglect of duty
643 or incompetence in the conduct of his office, it may refuse to
644 recommend such judge for nomination for appointment to a different
645 court or for reappointment. The Judicial Review Council shall not
646 recommend a judge for nomination for appointment to a different
647 court or for reappointment if the council finds such judge has wilfully
648 violated section 51-39a or has been convicted of a felony or of a
649 misdemeanor involving moral turpitude.]

650 (b) The Judicial Review Council shall submit [its recommendations
651 concerning the reappointment of any family support magistrate whose
652 term of office is about to expire, including] a report of any complaint
653 filed against any family support magistrate whose term of office is
654 about to expire and the disposition of any such complaint, including
655 any investigation of any such magistrate by the council, to the
656 Governor.

657 (c) The Judicial Review Council shall submit [its recommendations
658 concerning the nomination for reappointment of any compensation
659 commissioner whose term of office is about to expire, including] a
660 report of any complaint filed against any compensation commissioner
661 whose term of office is about to expire and the disposition of such
662 complaint, including any investigation of such compensation
663 commissioner by the council, to the Governor and to the joint standing
664 committee of the General Assembly having cognizance of matters
665 relating to the judiciary. The Judicial Review Council shall provide
666 information to said committee concerning [any complaint filed against
667 such compensation commissioner and the investigation and
668 disposition of such complaint,] such complaint, disposition and
669 investigation including, but not limited to, confidential information, in
670 the same manner and subject to the same requirements as information
671 provided under subdivisions (1) and (2) of subsection (a) of this
672 section.

673 (d) If a complaint against any such judge, compensation
674 commissioner or family support magistrate is received by the Judicial
675 Review Council and the Judicial Review Council is unable to make its
676 findings and complete its duties with respect to such judge,
677 compensation commissioner or family support magistrate prior to the
678 expiration of the term of office of such judge, compensation
679 commissioner or family support magistrate, the Judicial Review
680 Council [shall not refuse to recommend such judge, compensation
681 commissioner or family support magistrate for reappointment based
682 on such complaint, but] shall report the fact of such complaint to the
683 Governor and to the joint standing committee of the General Assembly

684 having cognizance of matters relating to the judiciary.

685 Sec. 9. Section 51-51r of the general statutes is repealed and the
686 following is substituted in lieu thereof (*Effective October 1, 2009*):

687 Any judge or family support magistrate aggrieved by any decision
688 of the Judicial Review Council may appeal the decision to the Supreme
689 Court in accordance with such procedure for the appeal as the
690 Supreme Court shall adopt by rule. In reviewing the factual findings of
691 the council, the Supreme Court shall ascertain whether there was
692 substantial evidence to support those findings and in reviewing the
693 legal conclusions of the council, the Supreme Court shall conduct a de
694 novo review.

695 Sec. 10. Section 51-1b of the general statutes is repealed and the
696 following is substituted in lieu thereof (*Effective July 1, 2009*):

697 (a) The Chief Justice of the Supreme Court shall be the head of the
698 Judicial Department and shall be responsible for its administration.

699 (b) The Chief Justice shall appoint a Chief Court Administrator who
700 shall serve at the pleasure of the appointing Chief Justice but not
701 beyond the date the appointing Chief Justice ceases to hold said office,
702 except that the Chief Court Administrator may continue to serve until
703 a successor is appointed. If the Chief Court Administrator is a judge of
704 the Superior Court, Appellate Court or Supreme Court, cessation of his
705 or her service as Chief Court Administrator shall not affect his or her
706 term as judge of the Superior Court, Appellate Court or Supreme
707 Court.

708 Sec. 11. Section 45a-74 of the general statutes is repealed and the
709 following is substituted in lieu thereof (*Effective July 1, 2009*):

710 (a) [There shall be a Probate Court Administrator who shall be
711 appointed from among the judges of the several courts of probate by
712 the Chief Justice of the Supreme Court to serve at his pleasure.] The
713 Chief Justice of the Supreme Court shall appoint a Probate Court
714 Administrator who shall serve at the pleasure of the appointing Chief

715 Justice but not beyond the date the appointing Chief Justice ceases to
716 hold said office, except that the Probate Court Administrator may
717 continue to serve until a successor is appointed. The Probate Court
718 Administrator shall be a judge of probate, former judge of probate or
719 an attorney having at least eight years experience in probate law. If the
720 Probate Court Administrator is unable by reason of sickness, absence
721 or other disability to perform the duties of [his] the office, or if there is
722 a vacancy in the office of Probate Court Administrator, the Chief
723 Justice shall designate [another] a judge of [a court of] probate to act
724 [in his stead until he] as Probate Court Administrator until the
725 appointed Probate Court Administrator resumes his or her duties or
726 until a new Probate Court Administrator is appointed.

727 (b) The Probate Court Administrator shall devote full time to the
728 duties of [his] the office except that he or she may serve as a judge of
729 probate but shall not engage in the private practice of law. [Any
730 Probate Court Administrator who ceases to serve as a judge of probate
731 may continue to serve as Probate Court Administrator at the pleasure
732 of the Chief Justice.] If the Probate Court Administrator is a judge of
733 probate, cessation of his or her service as Probate Court Administrator
734 shall not affect his or her term as judge of probate.

735 Sec. 12. Subdivision (1) of section 1-200 of the general statutes is
736 repealed and the following is substituted in lieu thereof (*Effective July*
737 *1, 2009*):

738 (1) "Public agency" or "agency" means:

739 (A) Any executive, administrative or legislative office of the state or
740 any political subdivision of the state and any state or town agency, any
741 department, institution, bureau, board, commission, authority or
742 official of the state or of any city, town, borough, municipal
743 corporation, school district, regional district or other district or other
744 political subdivision of the state, including any committee of, or
745 created by, any such office, subdivision, agency, department,
746 institution, bureau, board, commission, authority or official, and also
747 includes any judicial office, official, or body or committee thereof but

748 only with respect to its or their administrative functions. With respect
749 to such judicial office, official, or body or committee thereof,
750 "administrative functions" means those matters that relate to the
751 management of the internal institutional operations of the judicial
752 branch including, but not limited to, budgeting, accounting, personnel,
753 facilities, physical operations, contracting, docketing and scheduling;

754 (B) Any person to the extent such person is deemed to be the
755 functional equivalent of a public agency pursuant to law; or

756 (C) Any "implementing agency", as defined in section 32-222.

757 Sec. 13. (NEW) (*Effective July 1, 2009*) (a) Whenever the Office of the
758 Chief Court Administrator receives a written complaint concerning the
759 conduct of a judge, the Chief Court Administrator shall, in addition to
760 any administrative reasons for reviewing such complaint, review such
761 complaint to determine if there is reason to believe that the allegations
762 warrant further investigation by the Judicial Review Council. If the
763 Chief Court Administrator determines that such further investigation
764 is warranted, he or she shall refer such complaint to the Judicial
765 Review Council for investigation and action in accordance with
766 chapter 872a of the general statutes.

767 (b) If the Chief Court Administrator, in consultation with the Chief
768 Justice, determines that the complaint is (1) without merit, (2) properly
769 the subject of review through an existing adjudicatory procedure, or
770 (3) otherwise not within the purview of the Office of the Chief Court
771 Administrator, such complaint shall not be open to the public.

772 (c) If the Chief Court Administrator, in consultation with the Chief
773 Justice, determines that the complaint warrants administrative action,
774 but does not rise to the level that is appropriate for referral to the
775 Judicial Review Council, the Chief Court Administrator may issue an
776 admonishment in accordance with section 51-45a of the general
777 statutes.

778 Sec. 14. (NEW) (*Effective July 1, 2009*) The judicial branch shall make

779 the criminal docket of the Superior Court, including the docket
780 number, name of the defendant, year of birth of the defendant and
781 charge, available to the public on its Internet web site.

782 Sec. 15. (NEW) (*Effective October 1, 2009*) The judicial branch shall
783 make conviction information, as defined in section 54-142g of the
784 general statutes, available to the public on its Internet web site. Such
785 information shall include the docket number of the case, name of the
786 defendant, year of birth of the defendant, date of arrest, charges and
787 disposition including any fine, term of imprisonment and term of
788 probation imposed by the court, but shall not include the address or
789 motor vehicle operator license number of the defendant. Such
790 information shall be searchable by name of defendant, year of birth of
791 defendant and docket number. Conviction information with respect to
792 misdemeanors shall not be available to the public on the judicial
793 branch or other public agency web site after five years from the date of
794 the conviction.

795 Sec. 16. (NEW) (*Effective July 1, 2009*) The Judicial Branch shall
796 include a link on the home page of its Internet web site to the Internet
797 web site of the Judicial Review Council and to the Internet web site of
798 the Judicial Selection Commission.

799 Sec. 17. (NEW) (*Effective July 1, 2009*) Any police report used during
800 a court hearing as the basis for a judicial determination of probable
801 cause, whether or not probable cause has been found, shall be made
802 part of the court file and be open to the public unless the court, on
803 motion of any party or on its own motion, orders, for good cause
804 shown, all or a portion of the report to be sealed for a period of seven
805 days. If such motion is granted, the moving party may make a
806 recommendation not later than seven days after such order as to the
807 details of the sealing order, including the duration thereof. If no such
808 recommendation is made, the report shall be made public after said
809 seven-day period.

810 Sec. 18. Subsection (c) of section 19a-343a of the general statutes is
811 repealed and the following is substituted in lieu thereof (*Effective July*

812 1, 2009):

813 (c) If in the application, the state requests the issuance of a
814 temporary ex parte order for the abatement of a public nuisance, the
815 court [.] or, if the court is not in session, any judge of the Superior
816 Court, may grant a temporary ex parte order to abate the public
817 nuisance. The court or judge shall direct the state to give notice and
818 service of such documents, including a copy of the ex parte order, in
819 accordance with subsection (b) of this section. At such hearing, any
820 defendant may show cause why the abatement order shall be modified
821 or vacated. No such ex parte order may be granted unless it appears
822 from the specific facts shown by affidavit and by complaint that there
823 is probable cause to believe that a public nuisance exists and the
824 temporary relief requested is necessary to protect the public health,
825 welfare or safety. Such show cause hearing shall be scheduled within
826 five business days after service is effected by the state. [The affidavit
827 may be ordered sealed by the court or judge upon a finding that the
828 state's interest in nondisclosure substantially outweighs the
829 defendant's right to disclosure.] A copy of the state's application and
830 the temporary order to cease and desist shall be posted on any outside
831 door to any building on the real property.

832 Sec. 19. Section 51-164x of the general statutes is repealed and the
833 following is substituted in lieu thereof (*Effective July 1, 2009*):

834 (a) Any person affected by a court order which prohibits any person
835 from attending any session of court, except any session of court
836 conducted pursuant to section 46b-11, 46b-49, 46b-122 or 54-76h, [or
837 any other provision of the general statutes under which the court is
838 authorized to close proceedings, whether at a pretrial or trial stage,]
839 shall have the right to the review of such order by the filing of a
840 petition for review with the Appellate Court [within seventy-two
841 hours from] not later than three business days after the issuance of
842 such court order.

843 (b) No order subject to review pursuant to subsection (a) of this
844 section shall be effective until [seventy-two hours] the fourth business

845 day after it has been issued, and the timely filing of any petition for
846 review shall stay the order.

847 (c) Any person affected by a court order that seals or limits the
848 disclosure of any files, affidavits, documents or other material on file
849 with the court or filed in connection with a court proceeding, except (1)
850 any order issued pursuant to section 46b-11 or 54-33c, as amended by
851 this act, [or any other provision of the general statutes under which the
852 court is authorized to seal or limit the disclosure of files, affidavits,
853 documents or materials, whether at a pretrial or trial stage,] and (2)
854 any order issued pursuant to a court rule that seals or limits the e
855 disclosure of any affidavit in support of an arrest warrant, shall have
856 the right to the review of such order by the filing of a petition for
857 review with the Appellate Court [within seventy-two hours from] not
858 later than three business days after the issuance of such court order.

859 (d) The Appellate Court shall provide an expedited hearing on such
860 petitions filed pursuant to subsections (a) and (c) of this section in
861 accordance with such rules as the judges of the Appellate Court may
862 adopt, consistent with the rights of the petitioner and the parties to the
863 case.

864 Sec. 20. Subsection (a) of section 53a-39a of the general statutes is
865 repealed and the following is substituted in lieu thereof (*Effective*
866 *October 1, 2009*):

867 (a) In all cases where a defendant has been convicted of a
868 misdemeanor or a felony, other than a capital felony, a class A felony
869 or a violation of section 21a-278, 21a-278a, 53a-55, 53a-56, 53a-56b, 53a-
870 57, 53a-58 or 53a-70b or any other offense for which there is a
871 mandatory minimum sentence which may not be suspended or
872 reduced by the court, after trial or by a plea of guilty without trial, and
873 a term of imprisonment is part of a stated plea agreement or the
874 statutory penalty provides for a term of imprisonment, the court may,
875 in its discretion, order an assessment for placement in an alternate
876 incarceration program under contract with the Judicial Department. If
877 the Court Support Services Division recommends placement in an

878 alternate incarceration program, it shall also submit to the court a
879 proposed alternate incarceration plan. Upon completion of the
880 assessment, the court shall determine whether such defendant shall be
881 ordered to participate in such program as an alternative to
882 incarceration. If the court determines that the defendant shall
883 participate in such program, the court shall suspend any sentence of
884 imprisonment and shall make participation in the alternate
885 incarceration program a condition of probation as provided in section
886 53a-30. If the court orders the defendant to participate in an alternate
887 incarceration program pursuant to such alternate incarceration plan,
888 such plan, or that portion of such plan ordered by the court, shall be a
889 matter of public record.

890 Sec. 21. Section 54-33c of the general statutes is repealed and the
891 following is substituted in lieu thereof (*Effective October 1, 2009*):

892 (a) The applicant for the search warrant shall file the application for
893 the warrant and all affidavits upon which the warrant is based with
894 the clerk of the court for the geographical area within which any
895 person who may be arrested in connection with or subsequent to the
896 execution of the search warrant would be presented with the return of
897 the warrant. The warrant shall be executed within ten days and
898 returned with reasonable promptness consistent with due process of
899 law and shall be accompanied by a written inventory of all property
900 seized. A copy of such warrant shall be given to the owner or occupant
901 of the dwelling, structure, motor vehicle or place designated therein, or
902 the person named therein. Within forty-eight hours of such search, a
903 copy of the application for the warrant and a copy of all affidavits
904 upon which the warrant is based shall be given to such owner,
905 occupant or person. The judge or judge trial referee may, by order,
906 dispense with the requirement of giving a copy of the affidavits to
907 such owner, occupant or person at such time if the applicant for the
908 warrant files a detailed affidavit with the judge or judge trial referee
909 which demonstrates to the judge or judge trial referee that (1) the
910 personal safety of a confidential informant would be jeopardized by
911 the giving of a copy of the affidavits at such time, [or] (2) the search is

912 part of a continuing investigation [which] that would be adversely
913 affected by the giving of a copy of the affidavits at such time, or (3) the
914 giving of such affidavits at such time would require disclosure of
915 information or material prohibited from being disclosed by chapter
916 959a. If the judge or judge trial referee dispenses with the requirement
917 of giving a copy of the affidavits at such time, such order shall not
918 affect the right of such owner, occupant or person to obtain such copy
919 at any subsequent time. No such order shall limit the disclosure of
920 such affidavits to the attorney for a person arrested in connection with
921 or subsequent to the execution of a search warrant unless, upon
922 motion of the prosecuting authority within two weeks of such person's
923 arraignment, the court finds that the state's interest in continuing
924 nondisclosure substantially outweighs the defendant's right to
925 disclosure.

926 (b) Any order dispensing with the requirement of giving a copy of
927 the warrant application and accompanying affidavits to such owner,
928 occupant or person within forty-eight hours shall be for a specific
929 period of time, not to exceed two weeks beyond the date the warrant is
930 executed. Within that time period the prosecuting authority may seek
931 an extension of such period. Upon the execution and return of the
932 warrant, affidavits which have been the subject of such an order shall
933 remain in the custody of the clerk's office in a secure location apart
934 from the remainder of the court file.

935 (c) Any request by the prosecuting authority, made subsequent to
936 an arrest, to extend an order sealing an affidavit in support of a search
937 warrant as to such owner, occupant or person shall be a matter of
938 public record. An extension of the order shall be granted if the court
939 finds that the order is necessary to preserve an interest that is
940 determined to override the public's interest in viewing the affidavit, or
941 for good cause shown. An oral representation by the prosecuting
942 authority that (1) the personal safety of a confidential informant would
943 be jeopardized, (2) the search is part of a continuing investigation that
944 would be adversely affected, or (3) the unsealing of the affidavit would
945 require disclosure of information or material prohibited from being

946 disclosed by chapter 959a may be sufficient to establish good cause.
947 Any such extension shall be to a date certain, not to exceed ninety days
948 from the date of the request. The prosecuting authority may seek more
949 than one such extension, but no single extension shall exceed ninety
950 days.

951 Sec. 22. Subsection (d) of section 54-56d of the general statutes is
952 repealed and the following is substituted in lieu thereof (*Effective*
953 *October 1, 2009*):

954 (d) If the court finds that the request for an examination is justified
955 and that, in accordance with procedures established by the judges of
956 the Superior Court, there is probable cause to believe that the
957 defendant has committed the crime for which the defendant is
958 charged, the court shall order an examination of the defendant as to his
959 or her competency. The court may (1) appoint one or more physicians
960 specializing in psychiatry to examine the defendant, or (2) order the
961 Commissioner of Mental Health and Addiction Services to conduct the
962 examination either (A) by a clinical team consisting of a physician
963 specializing in psychiatry, a clinical psychologist and one of the
964 following: A clinical social worker licensed pursuant to chapter 383b or
965 a psychiatric nurse clinical specialist holding a master's degree in
966 nursing, or (B) by one or more physicians specializing in psychiatry,
967 except that no employee of the Department of Mental Health and
968 Addiction Services who has served as a member of a clinical team in
969 the course of such employment for at least five years prior to October
970 1, 1995, shall be precluded from being appointed as a member of a
971 clinical team. If the Commissioner of Mental Health and Addiction
972 Services is ordered to conduct the examination, the commissioner shall
973 select the members of the clinical team or the physician or physicians.
974 If the examiners determine that the defendant is not competent, the
975 examiners shall then determine whether there is a substantial
976 probability that the defendant, if provided with a course of treatment,
977 will regain competency within the maximum period of any placement
978 order under this section. If the examiners determine that there is a
979 substantial probability that the defendant, if provided with a course of

980 treatment, will regain competency within the maximum period of any
981 placement order under this section, the examiners shall then determine
982 whether the defendant appears to be eligible for civil commitment,
983 with monitoring by the Court Support Services Division, pursuant to
984 subdivision (2) of subsection (h) of this section. If the examiners
985 determine that there is not a substantial probability that the defendant,
986 if provided with a course of treatment, will regain competency within
987 the maximum period of any placement order under this section, the
988 examiners shall then determine whether the defendant appears to be
989 eligible for civil commitment to a hospital for psychiatric disabilities
990 pursuant to subsection (m) of this section and make a recommendation
991 to the court regarding the appropriateness of such civil commitment.
992 The court may authorize a physician specializing in psychiatry, a
993 clinical psychologist, a clinical social worker licensed pursuant to
994 chapter 383b or a psychiatric nurse clinical specialist holding a master's
995 degree in nursing selected by the defendant to observe the
996 examination. Counsel for the defendant may observe the examination.
997 The examination shall be completed within fifteen days from the date
998 it was ordered and the examiners shall prepare and sign, without
999 notarization, a written report and file such report with the court within
1000 twenty-one business days of the date of the order. On receipt of the
1001 written report, the clerk of the court shall cause copies to be delivered
1002 immediately to the state's attorney and to counsel for the defendant.
1003 The written report shall be sealed, but only as to the public, and the
1004 contents of the report shall not be disclosed, except during any
1005 evidentiary hearing as to the competency of the defendant at which
1006 such contents are relied upon by a participant as the basis for
1007 testimony, questioning of witnesses, arguments to the court or judicial
1008 findings or as otherwise authorized under section 52-146f.

1009 Sec. 23. Subsection (f) of section 54-56d of the general statutes is
1010 repealed and the following is substituted in lieu thereof (*Effective*
1011 *October 1, 2009*):

1012 (f) If the court, after the evidentiary hearing, finds that the
1013 defendant is competent, the court shall continue with the criminal

1014 proceedings. If the court finds that the defendant is not competent, the
 1015 court shall also find whether there is a substantial probability that the
 1016 defendant, if provided with a course of treatment, will regain
 1017 competency within the maximum period of any placement order
 1018 permitted under this section. The court shall state on the record the
 1019 reasons for the court's finding that the defendant is competent or not
 1020 competent.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	51-44a
Sec. 2	October 1, 2009	51-50l(a)
Sec. 3	October 1, 2009	52-434(a)
Sec. 4	October 1, 2009	51-51k
Sec. 5	October 1, 2009	51-51l
Sec. 6	October 1, 2009	51-51m(a)
Sec. 7	October 1, 2009	51-51n(a)
Sec. 8	October 1, 2009	51-51q
Sec. 9	October 1, 2009	51-51r
Sec. 10	July 1, 2009	51-1b
Sec. 11	July 1, 2009	45a-74
Sec. 12	July 1, 2009	1-200(1)
Sec. 13	July 1, 2009	New section
Sec. 14	July 1, 2009	New section
Sec. 15	October 1, 2009	New section
Sec. 16	July 1, 2009	New section
Sec. 17	July 1, 2009	New section
Sec. 18	July 1, 2009	19a-343a(c)
Sec. 19	July 1, 2009	51-164x
Sec. 20	October 1, 2009	53a-39a(a)
Sec. 21	October 1, 2009	54-33c
Sec. 22	October 1, 2009	54-56d(d)
Sec. 23	October 1, 2009	54-56d(f)

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Judicial Rev. Council	GF - Potential Revenue Gain	Minimal	Minimal
Various State Agencies	GF - Potential Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill authorizes the Judicial Review Council to impose civil penalties of up to \$10,000, which is a potential revenue gain for the state that is anticipated to be minimal.

The bill also requires state agencies (where practicable) to mail notices of their meeting dates to anyone who has requested written notification, which could result in a minimal cost.

The bill makes various other changes that have no fiscal impact.

The Out Years

The annualized cost identified above would continue into the future subject to inflation; the annualized revenue from fines would remain constant into the future since fine amounts are set by statute.

OLR Bill Analysis**sHB 6340*****AN ACT CONCERNING JUDICIAL BRANCH OPENNESS.***

This bill requires the Judicial Selection Commission (JSC) to evaluate incumbent state referees seeking reappointment in the same general way that they evaluate judges seeking reappointment.

The bill makes a number of changes to the procedures of the Judicial Review Council (JRC). These include (1) opening to the public records from a JRC hearing held after finding probable cause that a judge, compensation commissioner, or family support magistrate committed a violation; (2) requiring it to comply with Freedom of Information Act (FOIA) provisions on meeting notices and agenda availability; (3) authorizing a civil penalty of up to \$10,000 as discipline for a judge, compensation commissioner, or family support magistrate; and (4) eliminating the requirement that the JRC submit recommendations about (1) judges who are reappointed or nominated to a different court and (2) compensation commissioners and family support magistrates who are reappointed.

The bill specifies that the term of the chief court administrator and probate court administrator is until the appointing chief justice ceases to hold office or until a successor is appointed. It also expands who is eligible to be the probate court administrator.

It defines “administrative functions” as used in FOIA to identify Judicial Branch records and meetings subject to the act.

It makes a number of other changes including changes to court practices, primarily opening court records and proceedings to the public. Among these, it (1) requires the Judicial Branch to post more conviction information on its website, (2) makes public certain

alternative incarceration assessments and requests by prosecutors to seal an affidavit in support of a search warrant, and (3) sets circumstances when a competency evaluation can be disclosed.

EFFECTIVE DATE: July 1, 2009, except that the provisions on (1) the JSC and JRC, (2) conviction information on the Judicial Branch website, (3) alternative incarceration assessments, (4) search warrant affidavits, and (5) competency evaluations, are effective on October 1, 2009.

§§ 1-3 — JUDICIAL SELECTION COMMISSION (JSC)

Evaluation of State Referees

The bill requires the JSC to evaluate incumbent state referees seeking reappointment and forward the names of those it recommends to the governor (see BACKGROUND). The commission must establish its evaluation criteria in regulations.

The procedure the bill requires for evaluating state referees is very similar to the one the commission follows to evaluate judges seeking reappointment to the same court. The commission must:

1. consider each referee's legal ability, competence, integrity, character, temperament, and any other relevant information;
2. apply a rebuttable presumption that a referee is qualified for reappointment;
3. investigate and interview each referee;
4. hold a hearing if a preliminary examination indicates further inquiry is necessary;
5. subpoena witnesses if relevant to the inquiry;
6. notify the referee of the date, time, and place of any commission hearing to consider his or her reappointment and of any claims against him or her;

7. vote, by a majority plus one, to deny recommendation of a referee for reappointment; and
8. submit any recommendation to the governor.

The governor may not nominate an incumbent state referee denied a recommendation by the commission.

Votes on Judges and State Referees

Under current law, the commission's vote on an incumbent judge may be by secret ballot. The bill opens to the public the total affirmative or negative votes to recommend reappointment of an incumbent judge to the same court or appointment to a different court, or to recommend reappointment of an incumbent state referee.

Reports to the Judiciary Committee

By law, the commission submits an annual report to the Judiciary Committee on the number of judicial candidates interviewed and recommended for nomination, broken down by race, gender, national origin, religion, and years of experience. The bill requires the commission to include in the report the same information on incumbent state referees.

List of Judicial Candidates

By law, the commission must compile a list of qualified attorneys seeking judicial appointments and judges seeking appointments to different courts. The bill requires the commission to keep the list confidential, except that the names of qualified candidates for associate judge and chief justice of the state Supreme Court must be publicly available.

§§ 4-9 — JUDICIAL REVIEW COUNCIL

By law, the JRC investigates complaints against judges, compensation commissioners, and family support magistrates. If it finds probable cause that such an official violated certain standards of conduct, it holds a hearing. If the JRC finds the official guilty of the conduct, it can impose discipline.

Notice of Meetings

The bill requires the JRC to provide notice of its meetings and make agendas available to the public as required by FOIA (see BACKGROUND). It provides that a public agenda cannot contain personally identifiable information that might identify the subject of a complaint unless the JRC has already found probable cause that the person engaged in conduct that could be grounds for removal, suspension, or censure. (By law, investigations by the JRC are confidential until it finds probable cause.)

The bill requires the JRC to post notices and agendas on its website and give copies to the Judiciary Committee chairmen.

Ethics Advisory Opinions

The bill prohibits the JRC from considering any ethics advisory opinion issued by the Judicial Branch or one of its committees in any proceeding about a judge or family support magistrate. The JRC also cannot ask whether the judge or magistrate sought or received an ethics advisory opinion.

Disclosure of Investigation

Under current law, an investigation to determine whether there is probable cause for a violation is confidential, and any individual who provides information to the JRC cannot disclose knowledge of the investigation to others until the JRC makes a decision that there is probable cause. But (1) the person who is the subject of the investigation may request that the investigation be open and (2) information known independently is not confidential. The bill allows the council, on request and after giving the subject of the investigation the opportunity to be heard, to disclose that an investigation is being conducted if (1) the essential underlying facts have been made widely public and (2) preserving public confidence in the administration of justice outweighs the subject's privacy.

Hearings

The law requires the JRC to hold a hearing and publish its findings

after it finds probable cause. The bill specifies that the council must determine whether the individual is guilty of violating the standards of conduct after all evidence and arguments are presented at the hearing.

By law, all hearings are open. The bill makes the entire record of the proceedings open to public inspection, including any complaint, transcripts, statements, and documents introduced into evidence during the proceedings. But information exempt from disclosure under FOIA must be removed or redacted.

Expedited Investigations and Hearings

The law requires the JRC to conduct an expedited investigation and hearing when a complaint is pending within the final year of a judge's, compensation commissioner's, or family support magistrate's term. Under current law, the JRC must do so to complete its duties in sufficient time to make its recommendation to the Judicial Selection Commission or governor, whichever is required. The bill instead requires the JRC to finish in sufficient time to submit its report about the complaint to the governor, Judicial Selection Commission, and Judiciary Committee.

Discipline

The law allows the JRC to publicly censure a judge, compensation commissioner, or family support magistrate; suspend a judge, compensation commissioner, or family support magistrate for up to one year; refer a judge or magistrate to the Supreme Court recommending a suspension of more than one year or removal; and refer a compensation commissioner to the governor recommending removal.

The bill gives the JRC the option of also imposing a civil penalty of up to \$10,000 per violation, in place of suspending a judge, compensation commissioner, or family support magistrate for up to one year.

Recommendations

The bill eliminates requirements that the JRC submit recommendations about judges who are reappointed or nominated to a different court and compensation commissioners and family support magistrates who are reappointed.

Regarding judges, the bill eliminates (1) the required recommendations to the governor, JSC, and Judiciary Committee, and (2) provisions on when the JRC may and must refuse to recommend a judge. Just as it can under current law, the JRC must report on any complaint filed about the judge, dispositions of complaints, and any investigations. By law, the JRC must make all complaint files available to the Judiciary Committee. For complaints resulting in admonishment, public censure, or suspension, (1) information from the complaint, investigation, and disposition cannot be removed, redacted, or withheld and (2) any information about the judge requested by the committee chairmen in writing must be provided. The bill applies these rules also to complaints that resulted in a civil penalty.

Regarding family support magistrates, the bill still requires the JRC to report on any investigation of the magistrate and adds that it must report on any complaints filed against the magistrate and their dispositions.

Regarding compensation commissioners, the bill eliminates the required recommendation to the governor and Judiciary Committee. But it still requires the JRC to report on any investigations and also requires a report of any complaints filed and their dispositions.

Appeals

By law, a judge or family support magistrate aggrieved by a decision of the JRC can appeal it to the Supreme Court. The bill requires the court to conduct a new review of the JRC's legal conclusions and, when reviewing its factual findings, to determine whether there was substantial evidence to support those findings.

§ 10 — CHIEF COURT ADMINISTRATOR

Under current law, the Supreme Court chief justice appoints a chief court administrator who serves at the chief justice's pleasure. The bill provides that the chief court administrator can serve until the appointing chief justice ceases to hold office or the administrator's successor is chosen.

Under the bill, if the chief court administrator is also a judge, ending the term as administrator does not affect his or her term as a judge.

§ 11 — PROBATE COURT ADMINISTRATOR

Current law requires the probate court administrator to be a probate judge. The bill allows a nominee to also be a former probate judge or an attorney with at least eight years of probate law experience.

By law, the chief justice appoints the probate court administrator. Under the bill, the administrator serves at the pleasure of the appointing chief justice and until the appointing chief justice ceases to hold office or the administrator's successor is chosen.

The bill specifies that if the probate court administrator is a probate judge, the fact that a term as administrator ends does not affect his or her term as a probate judge.

§§ 12-23 — JUDICIAL OPENNESS

§ 12 — *Administrative Function*

By law, FOIA applies to the Judicial Branch, but only with respect to its administrative functions. However, "administrative functions" are not currently defined in statute (see BACKGROUND).

For judicial offices, officials, bodies, and committees, the bill defines "administrative functions" as those matters relating to the management of the internal institutional operations of the Judicial Branch, including, but not limited to, budgeting, accounting, personnel, facilities, physical operations, contracting, docketing, and scheduling.

§ 13 — *Complaints Regarding Judicial Conduct*

The bill requires the chief court administrator to review any written complaint of judicial misconduct that he or she receives to determine if it warrants a referral to the JRC for further investigation. If so, the administrator must refer the complaint. By law, council investigations are confidential; however, if it finds probable cause that a judge's behavior subjects him or her to removal, suspension, or censure, any further hearings are open to the public. A finding that a judge acted in a manner that gives the appearance of impropriety may result in an admonishment of which the council notifies the Judiciary Committee but does not otherwise disclose.

Under the bill, the complaint cannot be publicly disclosed if the chief court administrator, in consultation with the chief justice, determines that it is (1) without merit, (2) properly the subject of review through an existing adjudicatory procedure, or (3) otherwise not within the purview of the Office of the Chief Court Administrator. If, however, they determine that the complaint warrants administrative action, but not a referral to the JRC, the chief court administrator may admonish the judge by recommending a change in conduct or practice, as appropriate. The admonishment must be a part of the judge's performance evaluation, which is not publicly disclosed. However, the bill makes admonishments themselves public records.

§§ 14-15 — Criminal Information Available on the Internet

The bill requires the Judicial Branch to make conviction information and the Superior Court's criminal docket available to the public on its website.

The law defines "conviction information" as court records and other criminal history information used to identify criminal offenders that have not been erased. The bill requires the branch to include this information on its website and specifically requires case docket numbers and each defendant's name and birth year, arrest date, charges, and disposition, including any fine and term in prison and on probation. The website cannot include the defendant's address or driver's license number. The information must be searchable by

defendant's name, birth year, and docket number. Conviction information relating to misdemeanors must be removed from the Judicial Branch and all public agencies' websites five years after the conviction date.

The posted docket information must include the docket number and charge and the defendant's name and birth year.

The Judicial Branch currently posts docket information and conviction information on its website.

§ 16 — Judicial Branch Website Links to JRC and JSC

The bill requires the Judicial Branch to include a link on its Internet home page to the websites of the JRC and JSC.

§ 17 — Police Reports

The bill requires that a police report become part of the court file and open to the public if it is used during a court hearing to determine probable cause. But the bill authorizes the court to order all or a portion of the report sealed for up to seven days for good cause. The requirement applies regardless of whether probable cause is found.

If the court grants a motion to seal the report, the party that requested the report to be sealed may make a recommendation, within seven days, about the details of the sealing order including its duration. If no recommendation is made, the report is public after seven days.

§ 18 — Nuisance Abatement

By law, the state can bring an action to abate a public nuisance. The court may grant a temporary ex parte order to abate the nuisance if the state asks for it. The court must direct the state to notify the defendant and provide him or her with a copy of the order. At a court hearing, a defendant may show why the abatement order should be modified or vacated. An ex parte order may be granted only if it appears from the specific facts shown by affidavit and complaint that there is probable cause to believe that a public nuisance exists and the temporary relief

requested is necessary to protect public health, welfare, or safety. The show cause hearing must be scheduled within five business days after service of the order.

The bill prohibits the court from sealing the affidavit upon a finding that the state's interest in non-disclosure substantially outweighs the defendant's right to disclosure.

§ 19 — Access to Court Proceedings and Records

The bill extends, from 72 hours to three business days, the deadline for individuals to appeal a court order (1) banning them from a court session or (2) sealing or limiting the disclosure of any files, affidavits, documents, or other material on file with the court or filed in connection with a court proceeding. The extension, like the underlying law, does not apply to juvenile delinquency or youthful offender proceedings or records.

The bill extends the right to appeal to people banned from any other session or prohibited from accessing any other records that the court may lawfully prohibit people from attending or accessing, respectively.

§ 20 — Alternative Incarceration Program Assessments

By law, courts may order defendants convicted of certain felonies and any misdemeanor to participate in an alternative incarceration program instead of going to prison. If the court decides to consider the program for a defendant, it first must order the Judicial Branch's Court Support Services Division to assess the desirability of the placement. If the division recommends placement, it must submit a proposed alternative incarceration plan to the court.

The bill makes the plan or the portion of it that the court ordered a public record if the court orders participation in an alternative incarceration program based on the plan.

§ 21 — Order Sealing an Affidavit in Support of a Search Warrant

The bill makes public any request a prosecutor makes after an arrest

to extend an order sealing an affidavit in support of a search warrant as to an owner, occupant, or person. It requires the court to extend the order if it finds that the order is necessary to preserve an interest that is determined to override the public's interest in viewing the affidavit, or for good cause shown.

The bill specifies that an oral representation by the prosecuting authority may be sufficient to establish good cause if (1) the personal safety of a confidential informant would be jeopardized, (2) the search is part of a continuing investigation that would be adversely affected, or (3) the unsealing of the affidavit would require disclosure of information or material prohibited from being disclosed by law. Any such extension must be to a specific date, not more than 90 days from the date of the request. The bill authorizes a prosecutor to seek more than one extension, but no single extension can exceed 90 days.

§§ 22-23 — Competency Evaluations

The bill requires sealing a written report concerning a criminal defendant's competency to stand trial from the public and prohibits disclosure of the report's contents, except during an evidentiary hearing about the defendant's competency when a participant relies on the contents as (1) the basis for testimony, (2) questioning of witnesses, (3) arguments to the court, (4) judicial findings, or (5) allowed to be disclosed by a psychiatrist under the psychiatrist-patient privilege. The bill requires that the court also state on the record its reasons for its finding that the defendant is competent or not competent.

By law, the state, a defendant, or a court can raise the issue of a criminal defendant's competency to stand trial. If the court determines that the defendant should be examined, it may appoint a psychiatrist or order the mental health and addiction services commissioner to conduct the examination. The examiner must submit a written report to the court, which then holds a competency hearing.

BACKGROUND

State Referees

Any judge or senior judge who reaches the mandatory retirement age of 70 automatically becomes a state referee for the remainder of his or her term as judge, and is eligible for reappointment as a state referee for the remainder of his or her life. Although the law specifies that state referees may be reappointed “in the manner prescribed by law for the appointment of a judge of the court of which he is a member,” neither the Judicial Selection Commission nor the Judicial Branch has interpreted it as requiring referees to go through the Judicial Selection Commission’s process (CGS § 52-434).

Freedom of Information Meeting and Agenda Requirements

The law requires state agencies to file notices of their regular meetings with the Office of the Secretary of the State by January 31st each year. A special meeting may be called by filing a notice at least 24 hours before the meeting time. An emergency meeting may be held without complying with notice requirements.

Where practicable, the agency must mail a notice of its meetings at least a week before the meeting date (or less, if the meeting is called on less than a week’s notice) to anyone who has requested written notification.

An agency must make every regular meeting agenda available at least 24 hours before the meeting.

Administrative Functions

In *Clerk of the Superior Court, Geographical Area Number Seven v. Freedom of Information Commission*, 278 Conn. 28 (2006), the state Supreme Court held that records related to the Judicial Branch’s adjudicatory functions are categorically exempt from public disclosure and “administrative functions” are those relating to the branch’s budget, personnel, facilities, and physical operations of the courts.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 40 Nay 1 (03/31/2009)